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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of

Petition by AirTouch Paging for Rulemaking to  
Establish a Dedicated 8XX Code for Toll-Free Calls  
Placed from Pay Telephones

)  
)  
) RM No. 9273  
)  
)

COMMENTS OF  
THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL

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## TABLE OF CONTENTS

I. The Issue Raised By Airtouch's Petition Has Already Been Decided By The Commission .....	2
II. Airtouch Has Not Presented Any Evidence That There Is Demand Or Need For A Dedicated 8xx Code .....	8
III. Airtouch's Proposal Will Discourage Payphone Use By Fostering Customer Confusion And Inconvenience .....	13

## Summary

AirTouch's petition represents yet another chapter in its continuing efforts to shift the burden of paying compensation away from itself, and to have the Commission expend its valuable, limited resources on revisiting issues that have already been decided and upheld by a reviewing court. In view of the Commission's primary responsibility to resolve the more pressing compensation issues, APCC strongly disagrees with AirTouch's suggestion that the Commission commence a rulemaking proceeding to revisit the "caller-pays" approach whether immediately or at all. Instead, APCC submits that the Commission must first ensure that the larger goal of getting the payphone compensation framework up and running as well as functioning properly, in accord with the statutory mandate of Section 276, is achieved *before* the FCC takes any action to address ancillary matters, such as one party's efforts to shift the obligation to pay compensation away from itself.

Therefore, AirTouch's proposal is not appropriate for a significant investment of the Commission's resources at this time, *should the Commission elect to address the matter at all*. At the very least, the Commission should defer consideration of AirTouch's proposal until it has a substantial body of payphone compensation experience under the new regulatory framework.

The Commission has already rejected the "caller pays" approach for dial-around calls and found that callers "should not be required to deposit coins when making calls otherwise billed to an account." The Commission concluded that because transient callers

value the convenience of making coinless calls from payphones, it would be burdensome to force transient callers to acquire and deposit coins to make subscriber 800 calls from payphones, especially when such callers have an expectation that coins are not necessary for these calls. The Commission's rejection of the "caller-pays" approach in favor of a "carrier-pays" approach was subsequently upheld by the U.S. Court of Appeals for the District of Columbia Circuit.

In its petition, AirTouch concedes that it seeks to impose an "alternative compensation system" on the industry. Despite AirTouch's assertion that a large and significant number of toll-free subscribers would welcome an alternative compensation system, however, AirTouch provides no evidence that there is actual demand or need for a dedicated 8xx service area code by toll-free 800 subscribers. In petitioning the Commission to initiate an entirely new rulemaking, it seems incredible that AirTouch has not performed the basic "leg work" in polling its industry and other 800 number subscribers. Clearly, AirTouch has failed to make an entry-level showing of *any* demand for its proposal prior to burdening the Commission and the industry with its petition. In addition, AirTouch has not shown any meaningful data or public policy justifications in its petition to undercut the Commission's policy choice to support the coinless calling that the FCC concluded callers want.

AirTouch's proposal to create dedicated 8xx numbers for toll-free calls will result in customer confusion and inconvenience, which will in turn have the effect of discouraging payphone use. The basic concept behind a subscriber 800 number is simple: it enables

customers, family members, patients, and others to contact the 800 number subscriber from any location, at any time, free of charge to the caller, without any burden to the caller. AirTouch's proposal would undercut the toll-free alternative by sowing confusion at the payphone and encouraging potential callers to forego calls to *both* 800 number subscribers and 8xx subscribers that would otherwise be convenient to make, if not for the caller's need of figuring out what to do in a particular instance with a particular number, whether coins are needed and, if so, how many.

The burden of navigating what would be an increasingly complicated maze of calling possibilities clearly runs afoul of Congress' intent in seeking to make payphone use more widespread and consumer friendly. If confusion and inconvenience is allowed to proliferate, payphone callers will lose their confidence in the ability to make coinless, hassle-free calls to subscriber 800 numbers. The ultimate result of such confusion and inconvenience will be fewer calls made from payphones and a corresponding reduction in available payphones. Retailers and other businesses will see a measurable fall-off in their revenues as fewer customer calls are received. Therefore, the Commission need not disturb its choice of a carrier-pays approach to per call compensation for subscriber 800 calls.

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**THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL**

Pursuant to the Commission's Public Notice, Report No. 2274, released May 6, 1998, the American Public Communications Council ("APCC") hereby respectfully submits its comments regarding the Petition for Rulemaking to Establish a Dedicated 8XX Code for Toll-Free Calls Placed from Pay Telephones filed by AirTouch Paging ("AirTouch Petition"). APCC contends that (1) the issue of a "caller-pays" compensation system has already been decided by the Commission and upheld by a reviewing court; (2) Air Touch has presented no evidence that there is demand or need for a dedicated 8xx code; and (3) AirTouch's proposal is not in the public interest because it will result in customer confusion and inconvenience that will discourage payphone use.

APCC is a national trade association made up of almost 2,000 manufacturers and providers of independent public payphones. APCC seeks to promote fair competitive markets and high standards of service in the payphone and public communications markets. APCC has actively participated in every major proceeding affecting payphones.

**I. THE ISSUE RAISED BY AIRTOUCH'S PETITION HAS ALREADY BEEN DECIDED BY THE COMMISSION**

AirTouch's petition represents yet another chapter in its continuing efforts to shift the burden of paying compensation away from itself, and to have the Commission expend its valuable, limited resources on revisiting issues that have already been decided and upheld by a reviewing court. In addition, AirTouch's timing in hoisting this issue upon the Commission continues to be ill-chosen. Payphone competition *is* working, although it is still in its infancy. The Commission must first bring its regulatory framework for payphones to full maturity and evaluate the framework thoroughly before considering proposals by any one party to overhaul the Commission's rules in this area.

Previously, in its payphone proceeding arising out of the Telecommunications Act of 1996, the Commission considered, among other things, whether it should adopt, for subscriber 800 calls and access code calls, a "carrier-pays" approach, where the interexchange carrier ("IXC") receiving the call pays compensation to the payphone service provide ("PSP").<sup>1</sup> The Commission reasoned that this system would place the payment obligation on the primary beneficiary of such calls in the least burdensome, most cost effective manner.<sup>2</sup> The Commission found the carrier receiving the call was the primary economic beneficiary of the call. The Commission noted that it had previously adopted a

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<sup>1</sup> In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order (released September 20, 1996) ("Report and Order").

<sup>2</sup> Id. at para. 83

“carrier-pays” approach in its access code compensation proceeding, and that the participants in that proceeding had created a payment system that served as an appropriate model for the dial-around compensation proceeding.<sup>3</sup> In its Report and Order, the Commission rejected a system which relies on the caller’s deposit of coins because that payment system would unduly burden many transient payphone users.<sup>4</sup>

Subsequently, in its Order on Reconsideration,<sup>5</sup> the Commission affirmed its adoption of the “carrier-pays” approach for dial-around calls and found that callers “should not be required to deposit coins when making calls otherwise billed to an account.”<sup>6</sup> The Commission also observed that “coinless calling, including the use of coinless payphones, has proliferated in recent years.”<sup>7</sup> Therefore, the Commission concluded that because transient callers value the convenience of making coinless calls from payphones, it would be burdensome to force transient callers to acquire and deposit coins to make subscriber 800

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<sup>3</sup> Id.

<sup>4</sup> Report and Order at para. 85.

<sup>5</sup> In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Order on Reconsideration (released November 8, 1996) (“Order on Reconsideration”).

<sup>6</sup> Order on Reconsideration at para. 88; Report and Order at para. 85.

<sup>7</sup> Order on Reconsideration at para. 88. Indeed, coinless calling – both calling card calls and calls to subscriber 800 numbers – have grown significantly in the past two decades. Business and services, including paging providers, have been at the forefront of facilitating customer access through “toll-free” numbers, which do not require a coin deposit when made from a payphone.



calls from payphones, especially when such callers have an expectation that coins are not necessary for these calls.<sup>8</sup>

The Commission found additional support for its conclusion in the 1996 congressional amendments to Section 228(c)(7) of the Communications Act of 1934 (“the Act”), which prohibit carriers from assessing the calling party a charge for completing *any* 800 number.<sup>9</sup> Although the Commission found that Section 228(c)(7) does not expressly apply to PSPs, that section “provides persuasive evidence that Congress intended to ensure that access to 800 number subscribers without the calling party incurring a charge.”<sup>10</sup> The Commission concluded that “it would be unduly burdensome and costly to mandate . . . a caller-pays, coin deposit approach for particular types of subscriber 800 calls, such as calls to a paging service, while relying upon a carrier-pays approach for other compensable calls.”<sup>11</sup>

The Commission’s carrier-pays approach was subsequently upheld by the U.S. Court of Appeals for the District of Columbia Circuit:

Nevertheless, the Commission elected to adopt a “carrier pays” system in order to maintain the convenience of coinless calling upon which the public has come to rely. The Commission’s balancing of the

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<sup>8</sup> Id.

<sup>9</sup> 47 U.S.C. §228(c)(7). (emphasis added).

<sup>10</sup> Order on Reconsideration at para. 89.

<sup>11</sup> Id.

competing concerns of administrative efficiency and consumer convenience was not arbitrary.<sup>12</sup>

In its petition, AirTouch requests that the Commission initiate immediately a rulemaking proceeding that would consider establishing a dedicated service area code to create an additional option for toll-free number subscribers, to compensate PSPs for toll-free calls placed from payphones. Under AirTouch's proposal, a caller placing a call to the dedicated "8xx" service area code would be required to deposit 35 cents<sup>13</sup> to complete the call. The 35 cents deposited by the caller would then serve as per-call compensation to the PSP whose payphone was being used to make the call.

AirTouch contends that under its proposal:

A toll-free subscriber would have three options: (1) subscribe to a traditional toll-free number and incur per-call payphone charges passed through by the carrier; (2) subscribe to a traditional toll-free number, but block calls from payphones and thereby avoid incurring pass-through per-call charges; or (3) subscribe to a dedicated 8XX number that would allow the subscriber to receive calls without paying a payphone surcharge, because the calling party would pay the PSP's local coin rate directly.<sup>14</sup>

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<sup>12</sup> Illinois Public Telecommunications Association v. FCC, 117 F.3d 555, 567 (D.C. Cir. 1997). (citations omitted).

<sup>13</sup> AirTouch's petition refers to "35 cents" as the rate for completing calls from payphones. AirTouch Petition at 8, n. 20. Presumably, AirTouch refers to the deregulated local coin rate charged at each payphone.

<sup>14</sup> AirTouch Petition at 4.

Two out of AirTouch's three options are already possible under the Commission existing rules. Currently, an 800 number subscriber has per call charges passed through by the carrier, or the subscriber can ask its carrier to block calls from payphones. Thus, with the first two options, AirTouch has done little more than identify for the Commission its existing per-call compensation system for subscriber 800 calls. The third option, on the other hand, which AirTouch attempts to portray as a "supplement" to the Commission's existing per-call compensation system,<sup>15</sup> is in reality yet another attempt by AirTouch to substitute the bulk of the Commission's existing per-call compensation approach with a "caller pays" system for subscriber 800 calls. This latest attempt echoes its numerous previous proposals on this subject.<sup>16</sup>

It is not altogether clear from the petition if AirTouch's 8xx proposal encompasses toll-free access numbers used by callers to reach their carriers of choice. AirTouch appears to recognize,<sup>17</sup> however, that its proposal risks running afoul of the Telephone Operator Consumer Services Improvement Act ("TOCSIA"), whether or not it intends to include carrier access numbers.<sup>18</sup> Section 226(e)(2) expressly prohibits advance

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<sup>15</sup> AirTouch Petition at 5.

<sup>16</sup> See, e.g., In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Second Report and Order (released October 9, 1997) at para. 123 ("Second Report and Order").

<sup>17</sup> AirTouch Petition at 8-9. APCC assumes from AirTouch's statements that it intended its proposal to be limited to subscriber 800 calls.

<sup>18</sup> 47 U.S.C. Section 226.

payment (i.e., a coin deposit) by a caller for access to non-presubscribed carriers at payphones.<sup>19</sup> Therefore, to the extent that *any* carrier would provide access through the proposed 8xx number, PSPs would be violating the law in originating those particular access calls from payphones. The possibility of such inadvertent, unintentional violations of a federal statute is of grave concern to PSPs, particularly since PSPs would have no way of knowing who is using 8xx numbers. For its part, AirTouch has not suggested any means of controlling use of 8xx numbers to prevent such an outcome.

In view of the Commission's primary responsibility to resolve the more pressing compensation issues, APCC strongly disagrees with AirTouch's suggestion that the Commission commence a rulemaking proceeding to revisit the "caller-pays" approach whether immediately or at all.<sup>20</sup> Instead, APCC submits that the Commission must first

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<sup>19</sup> 47 U.S.C. Section 226(e)(2).

<sup>20</sup> AirTouch asks that the Commission initiate a proceeding to consider the "caller-pays" approach *immediately*. AirTouch contends that the Commission "promise[d] to investigate the state of competition in the payphone market and to determine whether the rules and policies set forth in the Payphone Orders are adequately serving the purposes of Section 276 and the public interest." AirTouch Petition at 3. This is incorrect. Contrary to AirTouch's assertions, the Commission indicated only that it would monitor the status of compensation in the payphone marketplace, at the FCC's option, at the conclusion of the first year of per-call compensation (which does not include the first year during which compensation was paid on flat-rate basis). Report and Order at paras. 51 and 61. Moreover, it appears from the Commission's statements in the Report and Order that any such review would be limited to the deregulation of the local coin rate only. *Id.* The Commission statements suggest that the FCC would not be concerned in a subsequent review with the method by which per-call compensation is accomplished, but only with the actual per-call compensation rate. In addition, because the second phase of payphone compensation began only last October, AirTouch's request for Commission review of

ensure that the larger goal of getting the payphone compensation framework up and running as well as functioning properly, in accord with the statutory mandate of Section 276, is achieved *before* the FCC takes any action to address ancillary matters, such as one party's efforts to shift the obligation to pay compensation away from itself.<sup>21</sup> Therefore, AirTouch's proposal is not appropriate for a significant investment of the Commission's resources at this time, *should the Commission elect to address the matter at all*. At the very least, the Commission should defer consideration of AirTouch's proposal until there is a substantial body of payphone experience and optional blocking of calls from payphones becomes widely available.

## **II. AIRTOUCH HAS NOT PRESENTED ANY EVIDENCE THAT THERE IS DEMAND OR NEED FOR A DEDICATED 8XX CODE**

In its petition, AirTouch concedes that it seeks to impose an "alternative compensation system" on the industry.<sup>22</sup> As discussed above, the familiar "caller pays" proposal was rejected by the Commission, and the Commission's decision was upheld by a reviewing court. APCC submits that AirTouch has still not provided *any* evidence

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matters related to deregulated compensation is premature, to say the least, and likely irrelevant to the Commission's concerns as well.

<sup>21</sup> As the Commission is aware, there are two separate remand opinions from the U.S. Court of Appeals on complex compensation issues that must be addressed by the FCC as soon as possible. Resolving the pending compensation issues are essential to continue the competition in the payphone marketplace and to ensure that payphones are available to callers who need them. *Illinois Public Telecommunications Association v. FCC*, 117 F. 3d 555 (D.C. Cir. 1997); *MCI Telecommunications, Inc. v. FCC*, Case No. 97-1675 (D.C. Cir.) (decided May 15, 1998).

<sup>22</sup> AirTouch Petition at 7.

regarding the demand or need for such an “alternative” system that would justify revisiting the Commission’s earlier conclusions.<sup>23</sup>

Despite AirTouch’s assertion that a large and significant number of toll-free subscribers would welcome an alternative compensation system, AirTouch provides no evidence that there is actual demand or need for a dedicated 8xx service area code by toll-free 800 subscribers.<sup>24</sup> AirTouch speculates, without offering any support, as to how all toll-free 800 subscribers might view a dedicated 8xx service area code, and as to whether any of the “over seven million” such toll-free 800 subscribers would actually elect to use the option proposed by AirTouch. AirTouch has even neglected to submit any evidence that it has polled its customers about whether they would support AirTouch’s proposed “alternative compensation system.”

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<sup>23</sup> Although the Commission rejected the “caller-pays” compensation approach, this did not prevent parties, including AirTouch, from raising the issue again despite the fact that it was beyond the scope of the public notice for the Second Report and Order. In its Second Report and Order, the Commission stated that “we do not revisit the issue of who is responsible for paying compensation . . . , [which is among the] issues already addressed in the Payphone Orders, and upheld by the court.” Second Report and Order at para. 132.

<sup>24</sup> AirTouch Petition at 7. AirTouch claims only that a majority of its customers want “to block calls from payphones rather than incur additional charges for such calls.” *Id.* AirTouch also speculates as to the feasibility of programming required to implement its proposed 8xx area code or the block of Nxx numbers within that dedicated 8xx area code, without providing any conclusive supporting information. *Id.* As the Commission is aware, it is not a simple matter to reprogram *all* payphones, and there are significant difficulties in programming “smart” payphones to recognize a particular block of Nxx numbers within a particular 8xx area code.

In petitioning the Commission to initiate an entirely new rulemaking, it seems incredible that AirTouch has not performed the basic “leg work” in polling its industry and other 800 number subscribers. This lack of “back-up” to AirTouch’s petition is particularly evident in AirTouch’s request that the Commission undertake, or require others in the industry to undertake, a study to determine the scope of interest in a dedicated 8xx service area code among potential and existing toll-free subscribers.<sup>25</sup> Clearly, AirTouch has failed to make an entry-level showing of *any* demand for its proposal prior to burdening the Commission and the industry with its petition. The Commission routinely denies petitions for rulemaking for a failure to make such an evidentiary showing. In support of this time-honored principle, the Commission should deny AirTouch’s petition.

In addition, the continued proliferation of calling cards and subscriber 800 numbers supports the Commission’s conclusion that the ability to make coinless calls from payphones is a convenience that transient callers value.<sup>26</sup> The “carrier-pays” compensation system adopted by the Commission responded to this trend by creating a per-call compensation system between carrier-payers and PSPs that is largely invisible to payphone callers. AirTouch has not shown any meaningful data or public policy justifications in its petition to undercut the Commission’s policy choice to support the coinless calling that the FCC concluded callers want. For this reason as well, AirTouch’s petition for rulemaking should be rejected.

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<sup>25</sup> *Id.* at 5.

AirTouch contends that the Commission needs to adopt its proposal because “competition can and will develop only when consumers have a choice of payphones at the same location” and that “consumer choice will lead in turn to competition among payphone providers.”<sup>27</sup> Although AirTouch’s statement suggests that a catalyst, such as its proposed dedicated 8xx service area code, is required to spur competition for coinless calls in the payphone marketplace, APCC submits that the Commission’s Payphone Orders have already created a system that is competitive because the caller is in charge and bears the economic consequences of his or her choice to use a payphone for a subscriber 800 call. The past eight months in which the local coin rate has been deregulated have shown that healthy competition *does* exist in the payphone marketplace. Callers now receive the best local calling rates by choosing those payphones with a fair local coin rate, and bypassing those payphones where the rate exceeds the level that is appropriate for that particular market. Callers are also seeing a greater availability of payphones where they are most needed. When locations are able to support additional payphones, existing PSPs at that location or new competitors will step in to provide them.

The caller is in charge and bears the economic consequences of using a payphone, even in the case of subscriber 800 calls, which do not involve a coin deposit. As the Commission is aware, the IXCs can and do pass the payphone compensation charges on to their subscribers. In turn, 800 subscribers can and do pass on the charges to their

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<sup>26</sup> Report and Order at para. 85; Order on Reconsideration at para. 88.

<sup>27</sup> AirTouch Petition at 6.



customers through a direct surcharge for using a payphone. The payment stream flows ultimately from the PSP — as payee — back to the originator of the call — as payor.<sup>28</sup>

Once the caller is in charge and responsible for paying his or her way, the caller has real, measurable market power that will have an impact on both the prices charged at payphones and on competition among payphones to originate the call. For example, callers can defer their calls until they return to their homes or workplaces. More importantly, a caller can exert pressure on premises owners to reduce rates charged at payphones. In the increasingly competitive world today — both in the payphone arena and in the marketplace at large — a business that has a payphone located on its premises will listen and react to customers who complain about a price that is too high. Once informed that its customers — *i.e.*, the relevant market — will not support a particular price, the business would risk driving away valuable customers by not insisting that the PSP lower its price or by changing PSPs altogether. With virtually every type of business, the customer tends to be king — and this is all the more so when it comes to payphone services. Callers are also using with increasing frequency alternative means of telecommunication, such as cellular phones or two-way paging.<sup>29</sup> These services provide callers with a greater range of choices in making

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<sup>28</sup> If any party along the payment stream elects to absorb the costs of payphone compensation rather than pass it downstream, that party has made a permissible marketing decision that is market-driven.

<sup>29</sup> These alternative means of telecommunication have led to some reduction in the number of local calls originated by payphones. This reduction would likely be exacerbated further by AirTouch's proposal.

their calls, and the availability of these services helps ensure that payphone coin rates cannot be set above what the market dictates.

As the foregoing discussion indicates, competition in the payphone marketplace is progressing quite well under the Commission's current compensation scheme. It appears from AirTouch's petition that it is the paging providers who fear competition amongst themselves by cutting prices and offering their customers the best deal. Therefore, the Commission should reject AirTouch's premise that a competition-spurring mechanism is required for the payphone marketplace.

### **III. AIRTOUCH'S PROPOSAL WILL DISCOURAGE PAYPHONE USE BY FOSTERING CUSTOMER CONFUSION AND INCONVENIENCE**

AirTouch's proposal to create dedicated 8xx numbers for toll-free calls will result in customer confusion and inconvenience, which will in turn have the effect of discouraging payphone use. When a customer approaches a payphone and prepares to dial a "toll free" number, the customer's expectation is that the call will be free.<sup>30</sup> Because of this, the customer is unconcerned with the need for carrying or finding coins to place his or her call. What AirTouch's petition clearly fails to consider, however, is the customer's reaction upon being asked to "deposit thirty-five cents" to complete a call that has always been "free." It is likely that the customer will be confused and frustrated after hearing such a message. The caller may well hang up and assume that the payphone is not working properly or is

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<sup>30</sup> Even today, with the use of an "888" exchange, subscriber 800 numbers include those other than numbers with an 800 prefix. Callers would not necessarily grasp that a new 8xx number was of another, non-toll-free variety.

otherwise defective. At the very least, the unprepared caller would be forced to struggle to locate enough change to complete the "free" call. The situation becomes even more troublesome for the caller if he is at a coinless payphone; he would simply be barred from making the call under AirTouch's proposal.

AirTouch has also failed to consider emergency situations, which is often when pagers, like cellular phones, are the most valuable to callers. If a called party uses an 8xx number, as proposed by AirTouch, however, a caller will not be able to make the call unless she is lucky enough to be carrying change with her. In this era of fewer and fewer coin transactions, it is more likely than not that a potential caller would not be carrying the correct change necessary for the call.

The basic concept behind a subscriber 800 number is simple: it enables customers, family members, patients, and others to contact the 800 number subscriber from any location, at any time, free of charge to the caller, without any burden to the caller. Individuals or entities who utilize the subscriber 800 option are content to pay for this convenient access to them, or else they would subscribe to a traditional, non-toll-free number. Shifting the cost of the call from the caller to the called party is the essence of subscriber 800 service. When faced with the choice of whether to pay a payphone surcharge for a call to their phone number, or forego the call entirely, it is reasonable to assume that most 800 number subscribers would rather receive the call, even if it might

mean paying a surcharge.<sup>31</sup> AirTouch's proposal would undercut that alternative by sowing confusion at the payphone and encouraging potential callers to forego calls to *both* 800 number subscribers and 8xx subscribers that would otherwise be convenient to make, if not for the caller's need of figuring out what to do in a particular instance with a particular number, whether coins are needed and, if so, how many.<sup>32</sup>

The burden of navigating what would be an increasingly complicated maze of calling possibilities clearly runs afoul of Congress' intent in seeking to make payphone use more widespread and consumer friendly. If confusion and inconvenience is allowed to proliferate, payphone callers will lose their confidence in the ability to make coinless, hassle-free calls to subscriber 800 numbers. The ultimate result of such confusion and inconvenience will be fewer calls made from payphones and a corresponding reduction in available payphones. Retailers and other businesses will see a measurable fall-off in their revenues as fewer customer calls are received. Thus, AirTouch's proposal is a lose-lose-lose situation: the caller would be unable to place its call in the manner intended by the 800

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<sup>31</sup> In the case of paging customers, APCC notes that the decision of whether to pass per-call compensation charges through to 800 number paging subscribers lies entirely with the paging company, and that the Commission's rules do not *require* such charges to ultimately be paid by any party other than the carrier that received the call from a payphone.

<sup>32</sup> Another result of adopting AirTouch's proposal would be to add yet another payphone-compensation "revenue opportunity." Just as carriers have used the existing compensation plan as an excuse to impose rate increases and surcharges that far exceed their actual compensation payments, carriers would likely use AirTouch's proposal as a basis for charging additional fees to subscribers for the "convenience" of a second "toll-free" number. The Commission should resist encumbering the compensation scheme with

number subscriber, the 800 number subscriber would not receive the call and its corresponding opportunities as expected, and the PSP's payphone would not be used as often as intended, and would therefore be less economically viable. Therefore, the Commission need not disturb its choice of a carrier-pays approach to per call compensation for subscriber 800 calls.

Respectfully submitted,

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June 5, 1998

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complexities that provide carriers with other means to increase their revenues, but contribute little, if anything, to the public interest.

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 1998, a copy of the foregoing Comments of the American Public Communications Council was sent by United States mail, first-class postage prepaid, to the following:

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